

**To be submitted electronically at: <http://www.fcc.gov/cgb/ecfs/>
Proceeding #02-278**

The American Correctional Association (ACA) is alarmed by the recent actions taken by the FCC to amend the regulations that implement the Telephone Consumer Protection Act of 1991 (TCPA). The FCC has decided, without gathering the proper input from the business and association community, to modify the current law by doing away with the “established business relationship” provision pertaining to fax announcements. This amendment will place onerous administrative and economic burdens on associations, including the ACA, by requiring “expressed written consent” from members prior to sending fax announcements. I hope you share in my concern over this onerous restriction of legitimate business activity.

The new FCC reading of the TCPA prohibits any person or entity from sending any fax that contains an unsolicited announcement which is defined as “any material advertising the commercial availability or quality of any property, good, or services which is transmitted to any person without that person’s prior express invitation or permission.” As a result, the established business relationship is no longer sufficient to permit faxes to be transmitted. Associations and businesses are now faced with the challenging administrative, legal, economic and record keeping ramifications that will arise from the new FCC changes.

The proposed changes, which are scheduled to go into effect on August 25, 2003, will create a significant economic and labor-intensive burden for the association community. The adjustment in the TCPA will require written consent for faxes pertaining to events such as membership renewals, annual meetings and other association activities.

While these changes may be suitable for residential telephone numbers as the new Do Not Call registry provides, they are certainly not acceptable for association-to-member communications. Associations rely on faxes as a prime source of communication and marketing to meet the needs of their members. At the ACA, we primarily utilize facsimile communications to members, specifically to facilitate membership renewal and with businesses with which we have a prior relationship. Of the normal broadcast to potential advertisers/exhibitors, more than 98% go to companies which are familiar with ACA or with whom the association has a current business relationship.

This regulation will impose significant costs and burdens on the American Correctional Association. With penalties reaching \$11,000 per unauthorized fax, this is a burden that few associations can financially endure. The proposed FCC changes are a prime example of an idea where the disadvantages and unintended consequences far outweigh the benefits. Therefore, we request that the FCC suspend their efforts to change the current TCPA until further input from the association community can be gathered and a compromise which protects the ability of associations to do business is reached.

Sincerely,

James A. Gondles, Jr.
Executive Director
American Correctional Association